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HOUSE OF REPRESENTATIVES

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REPORT
No. 97-208

BOOK 1

OMNIBUS BUDGET RECONCILIATION
ACT OF 1981

CONFERENCE REPORT

[To accompany H.R. 3932]



JULY 29, 1981.—Ordered to be printed

and the Flammable Fabrics Act for which notices of proposed rule-making are issued after August 14, 1981.

Subtitle B—Communications

CHAPTER 1—PUBLIC BROADCASTING

SHORT TITLE

SEC. 1221. This chapter may be cited as the "Public Broadcasting Amendments Act of 1981".

AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC TELECOMMUNICATIONS FACILITIES

SEC. 1222. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by inserting after "1981," the following: "\$20,000,000 for fiscal year 1982, \$15,000,000 for fiscal year 1983, and \$12,000,000 for fiscal year 1984,".

GRANTS FOR CONSTRUCTION AND PLANNING

SEC. 1223. (a) Section 392(a)(4) of the Communications Act of 1934 (47 U.S.C. 392(a)(4)) is amended by striking out "only" and inserting in lieu thereof "primarily", and by inserting before the semicolon at the end thereof the following: "; and that the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services will not interfere with the provision of such public telecommunications services as required in this part".

(b) Section 392(g)(2) of the Communications Act of 1934 (47 U.S.C. 392(g)(2)) is amended—

(1) by striking out "only" and inserting in lieu thereof "primarily"; and

(2) by striking out "(unless" and all that follows through "do so)" and inserting in lieu thereof the following: "(or the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services interferes with the provision of such public telecommunications services as required in this part)".

DECLARATION OF POLICY REGARDING CORPORATION

SEC. 1224. Section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)) is amended by striking out "and", and by inserting before the semicolon at the end thereof the following: "; and which will constitute a source of alternative telecommunications services for all the citizens of the Nation".

BOARD OF DIRECTORS OF CORPORATION

SEC. 1225. (a)(1) Section 396(c) of the Communications Act of 1934 (47 U.S.C. 396(c)) is amended to read as follows:

"BOARD OF DIRECTORS

"(c)(1) The Corporation for Public Broadcasting shall have a Board of Directors (hereinafter in this section referred to as the 'Board'), consisting of 10 members appointed by the President, by and with the advice and consent of the Senate, and the President of the Corporation. No more than 6 members of the Board appointed by the President may be members of the same political party. The President of the Corporation shall serve as the Chairman of the Board.

"(2) The 10 members of the Board appointed by the President (A) shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

"(3) Of the members of the Board appointed by the President under paragraph (1), one member shall be selected from among individuals who represent the licensees and permittees of public television stations, and one member shall be selected from among individuals who represent the licensees and permittees of public radio stations.

"(4) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

"(5) The term of office of each member of the Board appointed by the President shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each.

"(6) Any vacancy in the Board shall not affect its power, but shall be filled in the manner consistent with this Act.

"(7) Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill such vacancy not later than 30 days after such vacancy is determined by the Chairman of the Board."

(2)(A) The amendment made in paragraph (1) shall not affect the continuation in office of any individual serving on the Board of Directors of the Corporation for Public Broadcasting on the date of the enactment of this Act.

(B) The first 5 vacancies occurring on the Board after October 1, 1983 (other than any vacancy in the office of Chairman) shall not be filled, so as to reduce the membership of the Board to 10 members in addition to the Chairman of the Board.

(b) Section 396(d) of the Communications Act of 1934 (47 U.S.C. 396(d)) is amended to read as follows:

"Election of Vice Chairman; Compensation

"(d)(1) Members of the Board shall annually elect one or more of their members as a Vice Chairman or Vice Chairmen.

"(2) The members of the Board shall not, by reason of such membership, be deemed to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subpart, be entitled to receive compensation at the rate of \$150 per day, including travel time. No Board member shall receive compensation of more than \$10,000 in any fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses."

(c) Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended—

(1) by striking out "the Chairman and any" and inserting in lieu thereof "a"; and

(2) by inserting "for services rendered" after "Corporation" the sixth time it appears therein.

REPORT TO CONGRESS

SEC. 1226. Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended by striking out "February" and inserting in lieu thereof "May".

FINANCING; COMMUNITY ADVISORY BOARDS

SEC. 1227. (a) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking out "and" each place it appears therein;

(2) by inserting "1984, 1985, and 1986," after "1983,"; and

(3) by inserting before the period at the end thereof the following: ", and \$130,000,000 for each of the fiscal years 1984, 1985, and 1986".

(b) Section 396(k)(2)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(2)(B)) is amended—

(1) by striking out "quarterly" and inserting in lieu thereof "fiscal year"; and

(2) by striking out ", in such amounts" and all that follows through "quarter".

(c)(1) Section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(3)(A)(i) The Corporation shall establish an annual budget for use in allocating amounts from the Fund. Of the amounts appropriated into the Fund available for allocation for any fiscal year—

"(I) not more than 5 percent of such amounts shall be available for the administrative expenses of the Corporation;

"(II) not less than 5 percent of such amounts shall be available for other expenses incurred by the Corporation, including research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness, capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, and the costs of interconnection

facilities and operations (as provided in clause (iv)), except that the total amount available for obligation for any fiscal year under this subclause and subclause (I) shall not exceed 10 percent of the amounts appropriated into the Fund available for allocation for such fiscal year;

"(III) 75 percent of the remainder (after allocations are made under subclause (I) and subclause (II)) shall be allocated in accordance with clause (ii); and

"(IV) 25 percent of such remainder shall be allocated in accordance with clause (iii).

"(ii) Of the amounts allocated under clause (i)(III) for any fiscal year—

"(I) 75 percent of such amounts shall be available for distribution among the licensees and permittees of public television stations pursuant to paragraph (6)(B); and

"(II) 25 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public television programming.

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) not less than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B); and

"(II) not more than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution under subparagraph (B)(i) for public radio.

"(iv)(I) Subject to the provisions of clause (v), the Corporation shall defray an amount equal to 50 percent of the total costs of interconnection facilities and operations to facilitate the availability of public television and radio programs among public broadcast stations.

"(II) Of the amounts received as the result of any contract, lease agreement, or any other arrangement under which the Corporation directly or indirectly makes available interconnection facilities, 50 percent of such amounts shall be distributed to the licensees and permittees of public television stations and public radio stations. The Corporation shall not have any authority to establish any requirements, guidelines, or limitations with respect to the use of such amounts by such licensees and permittees.

"(v) If the expenses incurred by the Corporation under clause (i)(II) for any fiscal year for—

"(I) capital costs relating to telecommunications satellites;

"(II) the payment of programming royalties and other fees; and

"(III) the costs of interconnection facilities and operations (as provided in clause (iv));

exceed 6 percent of the amounts appropriated into the Fund available for allocation for such fiscal year, then 75 percent of such excess costs shall be defrayed by the licensees and permittees of public television stations from amounts available to such licensees and permittees under clause (ii)(I) and 25 percent of such excess costs shall be defrayed by the licensees and permittees of public radio stations from amounts available to such licensees and permittees under clause (iii)(I)."

(2) Section 396(k)(3)(B)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(i)) is amended to read as follows:

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II), and a significant portion of such other funds as may be available to the Corporation, to make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, and for acquisition of such programs by public telecommunications entities. Of the funds utilized pursuant to this clause, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs."

(3) Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended—

(A) in clause (ii) thereof, by striking out "contained in the annual budget established by the Corporation under clause (i)" and inserting in lieu thereof "available for distribution under clause (i)"; and

(B) by striking out clause (iii) and clause (iv) thereof.

(4) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(d)(1) Section 396(k)(6)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(A)) is amended to read as follows:

"(6)(A) The Corporation, in consultation with public radio stations and with National Public Radio (or any successor organization), shall determine the percentage of funds allocated under subclause (I) and subclause (II) of paragraph (3)(A)(iii) for each fiscal year. The Corporation, in consultation with such organizations, also shall conduct an annual review of the criteria and conditions applicable to such allocations."

(2) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended—

(A) by striking out the first sentence thereof;

(B) in the second sentence thereof, by inserting "under paragraph (3)(A)(ii)(I)" after "stations"; and

(C) in the last sentence thereof, by inserting "under paragraph (3)(A)(iii)(I)" after "radio stations".

(3) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(e) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended to read as follows:

"(7) The funds distributed pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes related primarily to the production or acquisition of programming."

(f) Section 396(k)(8) of the Communications Act of 1934 (47 U.S.C. 396(k)(8)) is amended to read as follows:

"(8) Any public telecommunications entity which—

"(A) receives any funds pursuant to this subpart for any fiscal year; and

"(B) during such fiscal year has filed or was required to file a return with the Internal Revenue Service declaring unrelated business income related to station operations under sections 501, 511, and 512 of the Internal Revenue Code of 1954;

shall refund to the Corporation an amount equal to the amount of unrelated business income tax paid as stated in such filed return."

(g)(1) Section 396(k)(9)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(A)) is amended—

(A) by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station";

(B) by inserting after "assure that" the following: "(i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii)"; and

(C) by striking out "reasonably reflects" and inserting in lieu thereof "are reasonably representative of".

(2) Section 396(k)(9)(D) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(D)) is amended by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station".

(3) Section 396(k)(9)(E) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(E)) is amended by inserting "(other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency)" after "public broadcast station".

RECORDS AND AUDIT

SEC. 1228. (a) Section 396(l)(1)(A) of the Communications Act of 1934 (47 U.S.C. 396(l)(1)(A)) is amended by inserting ", except that such requirement shall not preclude shared auditing arrangements between any public telecommunications entity and its licensee where such licensee is a public or private institution" after "United States".

(b) Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

(1) in clause (ii) thereof, by striking out "an annual" and inserting in lieu thereof "a biannual"; and

(2) in clause (iii) thereof, by striking out "annually" and inserting in lieu thereof "biannually".

EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

SEC. 1229. Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended to read as follows:

"EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

"SEC. 399. No noncommercial educational broadcasting station which receives a grant from the Corporation under subpart C of this part may engage in editorializing. No noncommercial educational broadcasting station may support or oppose any candidate for political office."

USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

SEC. 1230. Subpart D of part IV of title III of the Communications Act of 1934 (47 U.S.C. 397) is amended by adding at the end thereof the following new section:

"USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

"SEC. 399A. (a) For purposes of this section, the term 'business or institutional logogram' means any aural or visual letters or words, or any symbol or sign, which is used for the exclusive purpose of identifying any corporation, company, or other organization, and which is not used for the purpose of promoting the products, services, or facilities of such corporation, company, or other organization.

"(b) Each public television station and each public radio station shall be authorized to broadcast announcements which include the use of any business or institutional logogram and which include a reference to the location of the corporation, company, or other organization involved, except that such announcements may not interrupt regular programming.

"(c) The provisions of this section shall not be construed to limit the authority of the Commission to prescribe regulations relating to the manner in which logograms may be used to identify corporations, companies, or other organizations."

OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

SEC. 1231. Subpart D of part IV of title III of the Communications Act of 1934, as amended in section 1230, is further amended by adding at the end thereof the following new section:

"OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

"SEC. 399B. (a) For purposes of this section, the term 'advertisement' means any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—

"(1) to promote any service, facility, or product offered by any person who is engaged in such offering for profit;

"(2) to express the views of any person with respect to any matter of public importance or interest; or

"(3) to support or oppose any candidate for political office.

"(b)(1) Except as provided in paragraph (2), each public broadcast station shall be authorized to engage in the offering of services, facilities, or products in exchange for remuneration.

"(2) No public broadcast station may make its facilities available to any person for the broadcasting of any advertisement.

"(c) Any public broadcast station which engages in any offering specified in subsection (b)(1) may not use any funds distributed by the Corporation under section 396(k) to defray any costs associated with such offering. Any such offering by a public broadcast station shall not interfere with the provision of public telecommunications services by such station.

"(d) Each public broadcast station which engages in the activity specified in subsection (b)(1) shall, in consultation with the Corporation, develop an accounting system which is designed to identify amounts received as remuneration for, or costs related to, such activities under this section, and to account for such amounts separately from any other amounts received by such station from any source."

ately from any other amounts received by such station from any source."

STUDY ON ALTERNATIVE FINANCING FOR PUBLIC TELECOMMUNICATIONS

SEC. 1232. (a)(1) A study shall be conducted in accordance with the provisions of this section regarding options which may be available to public telecommunications entities, the Public Broadcasting Service, and National Public Radio with respect to the development of sources of revenue in addition to the sources of revenue available to such entities and organizations on the date of the enactment of this Act. Such study shall be completed not later than July 1, 1982, and a report shall be submitted to the Congress in accordance with subsection (i).

(2) The study required in paragraph (1) shall seek to identify funding options which also will ensure that public telecommunications as a source of alternative and diverse programming will be maintained and enhanced, and that public telecommunications services will continue to expand and be available to increasing numbers of citizens throughout the Nation.

(3) The study required in paragraph (1), in examining funding alternatives, also shall seek to determine appropriate means for ensuring that the use of such funding alternatives does not interfere with the content and quality of programming appearing on public television and radio.

(b)(1) The study required in subsection (a)(1) shall be conducted by a commission to be known as the Temporary Commission on Alternative Financing for Public Telecommunications (hereinafter in this section referred to as the "Commission").

(2) The Commission shall consist of the Chairman of the Federal Communications Commission (or a member of the Commission designated by the Chairman); the Assistant Secretary of Commerce for Communications and Information (or his delegate); the heads of the Corporation for Public Broadcasting, National Public Radio, and the National Association of Public Television Stations (or their delegates); the Chairman and the ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate (or any members of such committee designated by them); and the Chairman and ranking minority member of the Committee on Energy and Commerce of the House of Representatives (or any members of such committee designated by them).

(3) In addition to the members of the Commission specified in paragraph (2), an officer or employee of a public television station and an officer or employee of a public radio station shall serve as members of the Commission. Such members shall be selected by the members of the Commission specified in paragraph (2). Such selection shall be made at the first meeting conducted by the Commission.

(4) For purposes of this subsection, the terms "public television station" and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(c) The members of the Commission shall serve without compensation, but the Federal Communications Commission shall make

funds available to reimburse such members for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chairman of the Federal Communications Commission (or the person designated by the Chairman under subsection (b)(2)) shall serve as Chairman of the Commission.

(e) The Commission shall meet at the call of the Chairman or a majority of the members of the Commission. Six members of the Commission shall constitute a quorum.

(f)(1) Upon request of the Commission, the Federal Communications Commission shall furnish the Commission with such personnel and support services as may be necessary to assist the Commission in carrying out its duties and functions under this section. The Commission shall not be required to pay or reimburse the Federal Communications Commission for such personnel and support services.

(2) The Assistant Secretary of Commerce for Communications and Information, and the heads of the Corporation for Public Broadcasting, the Public Broadcasting Service, National Public Radio, and the National Association of Public Television Stations, each are authorized to furnish the Commission with such personnel and support services as each such organization considers necessary or appropriate to assist the Commission in carrying out its duties and functions under this section.

(g) The Commission shall have authority to hold such hearings, sit and act at such times and places, and take such testimony as the Commission considers advisable. The Commission shall seek to obtain the testimony and advice of business representatives, persons representing public interest groups, and other persons and organizations which have an interest in public broadcasting.

(h) The Commission shall be exempt from section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

(i) The Commission shall submit a report to the Congress containing the results of the study required in subsection (a)(1) not later than July 1, 1982. Such report shall include an evaluation of each option with respect to the development of additional sources of revenue, and shall include recommendations for such legislative or other action as the Commission considers necessary or appropriate.

(j)(1) Except as provided in paragraph (2), the Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in subsection (i).

(2) If the Commission decides to establish the demonstration program specified in section 1233, then the Commission shall reconvene after the termination of the demonstration program conducted under section 1233 for the purpose of carrying out the functions of the Commission specified in section 1233(e). The Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in section 1233(e).

DEMONSTRATION PROGRAM REGARDING ADVERTISING

SEC. 1233. (a) The Temporary Commission on Alternative Financing for Public Telecommunications established in section 1232 may

establish a demonstration program in accordance with this section for the purpose of determining the feasibility of permitting public television station licensees and public radio station licensees to broadcast advertising announcements. If the Commission decides to establish such demonstration program, then the Commission shall establish and carry out such demonstration program in accordance with the provisions of subsection (b) through subsection (f).

(b)(1)(A) The Commission shall establish the demonstration program as soon as practicable after the date of the enactment of this Act. The Commission shall permit public broadcast station licensees to begin the broadcasting of qualifying advertising not later than January 1, 1982, except that such licensees may begin such advertising before such date if the Commission completes the establishment of the demonstration program before such date.

(B) Such broadcasting of qualifying advertising shall be carried out during the 18-month period beginning January 1, 1982 (or beginning on such earlier date as may be authorized by the Commission under subparagraph (A)), except that such broadcasting of qualifying advertising shall terminate not later than June 30, 1983. The demonstration program shall terminate at the end of such period.

(2)(A) The Corporation for Public Broadcasting, in consultation with the Commission, shall select not more than 10 public television station licensees and not more than 10 public radio station licensees to participate in the demonstration program.

(B) Such selection shall be made from among licensees which have expressed to the Corporation a desire to participate in the demonstration program, except that any public television station licensee or public radio station licensee which is represented on the Commission under section 1232(b)(3) shall not be eligible to participate in the demonstration program.

(C) If a licensee elects not to participate in the demonstration program, after receiving notice of its selection from the Corporation, then the Corporation shall select an alternate licensee.

(D) The exemption from income tax of any public broadcast station licensee under section 501(a) of the Internal Revenue Code of 1954, relating to exemption from taxation, shall not be affected by the participation of such licensee in the demonstration program.

(3) The Corporation shall make selections under paragraph (2), to the extent practicable, in a manner which ensures that—

(A) a representative geographical distribution of public broadcast station licensees will be achieved;

(B) licensees serving audiences and markets of various sizes will participate in the demonstration program;

(C) licensees with operating budgets of various sizes will participate in the demonstration program;

(D) different types of licensees will participate in the demonstration program; and

(E) in the case of public radio station licensees, licensees with different types of programming formats will participate in the demonstration program.

(c) Each public television station licensee or public radio station licensee which is selected by the Corporation for Public Broadcasting under subsection (b) shall be authorized to broadcast qualifying advertising in accordance with subsection (d).

(d)(1)(A) Except as provided in subparagraph (B), any qualifying advertising announcement which is broadcast by any public television station licensee or any public radio station licensee may be broadcast only at the beginning or at the end of regular programs, and may not interrupt regular programs.

(B) In the case of any regular program which is 2 or more hours in duration, any public radio station licensee may broadcast (subject to paragraph (2)) a qualifying advertising announcement during the program, but only (i) during a break in the program scheduled for station identification; or (ii) at other times which will not unduly disrupt the program.

(2) Any qualifying advertising announcements which are broadcast consecutively by any public television station licensee or any public radio station licensee may not exceed 2 minutes in duration. Such licensees may not engage in any such consecutive broadcasts of qualifying advertising announcements more than once during any 30 minute period.

(3)(A) The Commission shall prescribe regulations which specify the types of advertisements which may be broadcast by licensees during the demonstration program. The Commission may authorize licensees participating in the demonstration program to broadcast institutional advertisements and advertisements relating to specific products, services, or facilities. Licensees shall not be authorized or required to broadcast any advertisement which—

(i) is intended to promote any opinion or point-of-view regarding any matter of public importance or interest, any political issue, or any matter relating to religion; or

(ii) is intended to support or oppose any candidate for political office.

(B) The Federal Communications Commission shall have authority to determine in disputed cases whether any advertising announcement shall be considered to be qualifying advertising for purposes of this section.

(4) The Commission shall prescribe regulations which establish requirements relating to the sale of broadcast time for advertisements during the demonstration program. Such regulations may authorize—

(A) the assignment of broadcast time for advertisements through a system of random selection;

(B) the sale of broadcast time for advertisements which will be broadcast at the beginning or at the end of particular programs, or during particular portions of the broadcast day; or

(C) any other method for the sale of broadcast time which the Commission considers appropriate.

(5) The Commission shall have authority to prescribe regulations under paragraph (3) and paragraph (4) which establish different criteria and requirements applicable to the various licensees participating in the demonstration program, to the extent the Commission considers the establishment of such different criteria and requirements to be necessary to assist the Commission in preparing the report, and making the recommendations, required in subsection (e).

(6) Any issue regarding compliance with the provisions of this subsection shall be resolved by the Federal Communications Commission in accordance with its authority under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(e)(1) The Commission, as soon as practicable after the termination of the demonstration program under subsection (b)(1)(A), shall analyze the results of the demonstration program and shall submit a report to each House of the Congress regarding the demonstration program. Such report shall be submitted not later than October 1, 1983, and shall include—

(A) an examination of whether qualifying advertising had any influence or effect upon programming broadcast by the public broadcast station licensees involved;

(B) an analysis of the reaction of audiences to the broadcasting of such qualifying advertising;

(C) an examination of the extent to which businesses and other organizations engaged in the purchase of broadcast time for the broadcast of qualifying advertising;

(D) an analysis of whether the broadcasting of qualifying advertising had any impact upon the underwriting of programs; and

(E) any other findings or information which the Commission considers appropriate.

(2) Such report also shall include such recommendations for legislative or other action as the Commission considers appropriate, including a recommendation regarding whether public broadcast stations should be permitted to broadcast qualifying advertising on a permanent basis.

(f) For purposes of this section:

(1) The term "Commission" means the Temporary Commission on Alternative Financing for Public Telecommunications established in section 1232.

(2) The term "demonstration program" means the demonstration program which the Commission is authorized to establish in accordance with this section.

(3) The terms "public broadcast station", "public television station", and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(4) The term "qualifying advertising" means any type of advertising specified by the Commission under subsection (d)(3)(A).

TECHNICAL AMENDMENTS

SEC. 1234. (a) Section 396(g) of the Communications Act of 1934 (47 U.S.C. 396(g)) is amended by striking out paragraph (5) thereof, and by redesignating paragraph (6) as paragraph (5).

(b) Section 397(15) of the Communications Act of 1934 (47 U.S.C. 397(15)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "Human Services".

CHAPTER 2—TELEVISION AND RADIO BROADCASTING

TELEVISION AND RADIO LICENSE TERMS

SEC. 1241. (a) Section 307(d) of the Communications Act of 1934 (47 U.S.C. 307(d)) is amended—

(1) by inserting "television" after "operation of a";

(2) by striking out "three years" each place it appears therein and inserting in lieu thereof "five years";

(3) by inserting "(other than a radio broadcasting station)" after "class of station";

(4) by inserting after the first sentence thereof the following new sentence: "Each license granted for the operation of a radio broadcasting station shall be for a term of seven years.";

(5) by inserting "television" after "in the case of" the first place it appears therein;

(6) by inserting "for a term of seven years in the case of radio broadcasting station licenses," after "licenses," the first place it appears therein; and

(7) by inserting "for a term of" after "and" the third place it appears therein.

(b) The amendments made in subsection (a) shall apply to television and radio broadcasting licenses granted or renewed by the Federal Communications Commission after the date of the enactment of this Act.

GRANTING OF CERTAIN INITIAL LICENSES AND PERMITS BASED ON SYSTEM OF RANDOM SELECTION

SEC. 1242. (a) Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(1) If there is more than one applicant for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining the qualifications of each such applicant under section 308(b), shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

"(2) The determination of the Commission under paragraph (1) with respect to the qualifications of applicants for an initial license or construction permit shall be made after notice and opportunity for a hearing, except that the provisions of section 409(c)(2) shall not apply in the case of any such determination.

"(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection, groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences.

"(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

"(4)(A) The Commission, not later than 180 days after the effective date of this subsection, shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

paragraph (1).

"(B) The Commission shall have authority to amend such rule from time to time to the extent necessary to carry out the provision of this subsection. Any such amendment shall be made after notice and opportunity for hearing."

(b) The Commission shall have authority to use the system of random selection established by the Commission under section 309(i) of the Communications Act of 1934, as added in subsection (a), with respect to any application for an initial license or construction permit which will involve any use of the electromagnetic spectrum and which—

(1) is filed with the Commission after the date of the enactment of this Act; or

(2) is pending before the Commission on such date of enactment but has not been designated for hearing on or before such date of enactment.

SPECIAL REQUIREMENTS RELATING TO BROADCASTING STATION LICENSE APPLICATIONS

SEC. 1243. Section 311 of the Communications Act of 1934 (47 U.S.C. 311) is amended by adding at the end thereof the following new subsection:

"(d)(1) If there are pending before the Commission two or more applications for a license granted for the operation of a broadcasting station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications in exchange for the payment of money, or the transfer of assets or any other thing of value by the remaining applicant or applicants.

"(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall require.

"(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its license application for the purpose of reaching or carrying out such agreement.

"(4) For purposes of this subsection, an application shall be deemed to be pending before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court."

CHAPTER 3—REGULATORY AGENCIES

Subchapter A—Federal Communications Commission

AUTHORIZATION OF APPROPRIATIONS

SEC. 1251. (a) The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting after section 5 the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There is authorized to be appropriated for the administration of this Act by the Commission \$76,900,000, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1982 and 1983."

(b) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 4(g)) is amended by striking out "from time to time may be appropriated for by Congress" and inserting in lieu thereof "may be appropriated for by the Congress in accordance with the authorizations of appropriations established in section 6".

MANAGING DIRECTOR OF COMMISSION; ANNUAL REPORT

SEC. 1252. Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by adding at the end thereof the following new subsections:

"(f) The Commission shall have a Managing Director who shall be appointed by the Chairman subject to the approval of the Commission. The Managing Director, under the supervision and direction of the Chairman, shall perform such administrative and executive functions as the Chairman shall delegate. The Managing Director shall be paid at a rate equal to the rate then payable for level V of the Executive Schedule.

"(g) The Commission shall submit an annual report to the Congress not later than January 31 of each year. Such report shall—

"(1) list the specific goals, objectives, and priorities of the Commission which shall be projected over 12-month, 24-month, and 36-month periods;

"(2) describe in detail the programs which are, or shall be, established to meet or carry out such goals, objectives, and priorities;

"(3) provide an evaluation of actions taken during the preceding year with regard to fulfilling the functions of the Commission; and

"(4) contain recommendations for legislative action required to enable the Commission to meet its objectives."

UNIFORM SYSTEM OF ACCOUNTS

SEC. 1253. (a)(1) The Federal Communications Commission (hereinafter in this section referred to as the "Commission") shall complete the rulemaking proceeding relating to the revision of the uniform system of accounts used by telephone companies (Common Car-

rier Docket 78-196; notice of proposed rulemaking adopted June 2, 1978, 43 Federal Register 33560) as soon as practicable after the date of the enactment of this Act.

(2) Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.

(b) The Commission shall submit a report to each House of the Congress not later than one year after the date of the enactment of this Act. Such report shall include a summary of actions taken by the Commission in connection with the rulemaking proceeding specified in subsection (a), together with such other information as the Commission considers appropriate.

Subchapter B—National Telecommunications

and Information Administration

AUTHORIZATION OF APPROPRIATIONS

SEC. 1255. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration \$16,483,500, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1982.

Subtitle C—Department of Commerce

AUTHORIZATION OF APPROPRIATIONS

SEC. 1261. There are authorized to be appropriated to the Secretary of Commerce for expenses necessary for the general administration of the Department of Commerce not to exceed \$33,472,300 for fiscal year 1982, \$33,472,300 for fiscal year 1983, and \$33,472,300 for fiscal year 1984.

TITLE XIII—INTERNATIONAL AFFAIRS

Subtitle A—Public Law 480

APPROPRIATION LIMITS

SEC. 1301. Notwithstanding any other provision of law, programs shall not be undertaken under title I (including title III) and title II of the Agricultural Trade Development and Assistance Act of 1954 during any calendar year which call for an appropriation of more than \$1,304,836,000 for the fiscal year 1982, \$1,320,292,000 for the fiscal year 1983, and \$1,402,278,000 for the fiscal year 1984.

expenses related to a reduction in force in the agency. The Conferees recognize that these reduced authorization levels will necessitate a significant reduction in agency personnel. The Conferees intend that most of the reductions be effected through the elimination and consolidation of field offices.

EFFECTIVE DATE

House bill.—The House bill provided that the Congressional veto provisions apply to rules promulgated under CPSA, FHSA, and FFA after the date of enactment. The House bill also provided that the amendments to the agency's rulemaking procedures contained in sections 6382, 6383, 6384 and 6391 apply to rules under CPSA, FHSA, and FFA for which notices of proposed rulemaking are issued after May 8, 1981. Finally, the House bill provided that all other sections take effect upon enactment.

Senate amendment.—The Senate amendment contained no provision.

Conference substitute.—The Conference substitute provides that the Congressional veto provisions apply to rules promulgated under CPSA, FHSA and FFA after the date of enactment. The Conference substitute also provides that the amendments to the agency's rulemaking procedures contained in sections 1202, 1203 and 1204 apply to rules under CPSA, FHSA, and FFA for which notices of proposed rulemaking are issued after August 14, 1981. The Conferees have changed the effective date of these provisions so that the agency will not be required to re-publish proposed notices of rulemaking dealing with flammability standards applicable to disposable diapers and CB base station antennas. It is the understanding of the Conferees that this change will affect no other regulatory effect. Finally, the Conference substitute provides that all other sections take effect upon enactment.

TITLE XII—STATEMENT OF MANAGERS

SUBTITLE B—COMMUNICATIONS

CHAPTER I—PUBLIC BROADCASTING

Public Broadcasting Amendments Act of 1981, Conference Report

(All section references are to the Public Broadcasting Act of 1967, as amended)

Section 391, Facilities

S. 720 authorized appropriations for NTIA's facilities program of \$16 million, \$11 million, and \$7 million for fiscal years 1982, 1983, and 1984, respectively. H.R. 3238 authorized appropriations of \$25 million, \$20 million, and \$15 million for fiscal year 1982-84, permitted facilities to be leased out for commercial activities, and provided that the Secretary could not assume more than 50% of the costs of any facilities planning grant under Section 392.

The conference agreement (1) authorizes appropriations for the facilities program of \$20 million, \$15 million, and \$12 million for fiscal years 1982, 1983, and 1984, respectively; (2) accepts the House

amendment regarding commercial use of facilities; and (3) retains existing law regarding planning grants.

Section 396(a), Declaration of Policy

S. 720 altered the declaration of policy regarding the Corporation for Public Broadcasting by stressing the growth and development of "public audio and video programs, however delivered." H.R. 3238 left Section 396(a) unchanged.

The conference agreement accepts the House position. The conferees believe that the existing mandate is sufficient to meet the broad needs public broadcasting is to serve. The conferees, however, take note of the concerns that certain responsibilities public broadcasting does have, such as to the blind, cannot, in every instance, be met through the delivery of public telecommunications services via public television and radio stations alone, and hope that the Corporation will give continuing attention to this issue.

Section 396(c), Board of Directors

S. 720 reduced the size of the CPB Board from 15 to 9, consisting of 8 directors appointed by the President, with the advice and consent of the Senate, and the President of the Corporation, chosen by the other directors, who would also serve as the ninth director and Chairman of the Board. S. 720 made several other modifications in the structure and operation of the Board.

H.R. 3238 maintained the current size of the Board, but provided for the placement of 2 representatives of public television stations and 2 representatives from public radio stations on the Board. The House bill also contained a procedure whereby the Board would convey to the President a list of potential nominees to fill vacancies on the Board.

The conference agreement reduces the size of the CPB Board from 15 to 11, consisting of 10 directors selected by the President, with the advice and consent of the Senate, and the president of the Corporation, chosen by the other Board. The agreement also provides for the nomination by the President, after consultation with representatives of public television and radio licensees, of 1 representative of public television stations, and 1 representative from public radio for service on the Board, with the advice and consent of the Senate. The transition to the smaller Board shall be by attrition beginning October 1, 1983. Although the President has full discretion in selecting the television and radio representatives, the conferees urge the President to give the most careful consideration to the suggestions made by the stations. The stations may wish to submit to the President a list of individuals they believe worthy of service on the Board.

The conference agreement further provides that no more than 6 members of the Board appointed by the President may be of the same political party. The conferees accepted the Senate provisions reducing terms of service from 6 to 5 years, the attendance requirement for meetings, election of the Vice Chairman, per diem compensation, officers and employees of the Corporation, and the limitation for reimbursement for Board members. The conferees are concerned over the expenses incurred by the Board, and urge the Board to consider taking steps to eliminate the payment of per

diems to Board members for routine work involving little time commitment.

The provisions restricting Board meetings to Washington, D.C., as contained in S 720, and the provisions establishing a process to submit a list of qualified individuals to the President to fill Board vacancies, as contained in HR 3238, are deleted. However, the conferees note that there is absolutely nothing preventing the Corporation, the stations, and others from establishing, as circumstances warrant, a blue-ribbon panel to help advise the President on outstanding potential nominees for the Board. The reductions in funding for public broadcasting contained in this bill place a premium on CPB's leadership, and all concerned about the future of public broadcasting should be working on mechanisms to strengthen it.

Section 396(g), Purposes and Activities of the Corporation

The conferees retained existing provisions of law regarding Section 396(g), including the requirement that CPB's program fund use peer review panels in reaching its decisions, and accepted the House provision deleting the study contained in Section 396(g)(5), relating to non-federal financial support.

Section 396(h), Interconnection Service

S 720 made certain minor modifications in the language of this section. HR 3238 made no such amendments. The Senate receded to the House position.

Section 396(i), Report to Congress

The Senate accepted the House amendment to Section 396(i)(1), changing the date of transmittal of the Corporation's annual report to Congress from February 15 to May 15.

Section 396(k), Financing; Open Meetings and Financial Records (1) Financing

S 720 authorized appropriations for the Corporation for Public Broadcasting for fiscal years 1984, 1985, and 1986 of \$110 million, \$100 million, and \$100 million, respectively. The Senate bill retained the 2:1 match of federal and non-federal funds. S 720 provided that public broadcasting stations were to receive no less than 60% of the funds appropriated to the Corporation. S 720 required that the Corporation pay 50% of the costs of facilities and operations of interconnection. S 720 deleted Section 396(k)(7), the so-called "50% rule," which limits the amount any station can receive from CPB to no more than 50% of its non-federal financial support. The Senate bill required community service grants (csg's) to be used by the stations for purposes "related primarily" to programming, but further provided that csg payments to a station would be reduced by an amount equal to the amount of unrelated business income tax paid by the station because of such unrelated business activities.

HR 3238 authorized appropriations for CPB for fiscal years 1984, 1985, and 1986 of \$160 million, \$145 million, and \$130 million, respectively. HR 3238 also retained the 2:1 match. The House bill provided that CPB's funds are to be disbursed from the Treasury on an annual, rather than quarterly, basis. HR 3238 also established a detailed formula specifically allocating CPB's budget,

while providing that the stations would assume the full costs of interconnection. The conferees agree to the following authorization for CPB: \$130 million for each of fiscal years 1984, 1985, and 1986. The conference agreement adopts the House provision regarding the annual disbursement of funds from the Treasury to CPB. Further, the conferees accepted the allocation formula for CPB's budget proposed by the House with the following modifications:

(1) Of the funds allocated to television under paragraph (3)(A)(ii), 75% shall be available for community service grants, and 25% for CPB's national program fund.

(2) In order to ensure the ability of the Corporation to meet its fixed costs for the payment, under paragraph (3)(A)(i)(II), of capital costs of the satellite, copyright royalties, and its share of the interconnection, a new provision, paragraph (3)(A)(v), was added. It states that should CPB's fixed costs for the satellite, copyright, and interconnection exceed 60% of the funds allocated to CPB pursuant to paragraphs (3)(A)(i)(I) and (II), then the stations shall pick up the balance of such costs on a pro-rata basis through reductions in allocations under (3)(A)(ii)(I) and (3)(A)(iii)(I)—the television and radio community service grants, respectively. Three-quarters of the balance of such costs shall be met by television, and one-quarter by radio. The conferees trust that this arrangement will enable CPB to meet its obligations without fear that its costs will exceed the cap on funds allocated to it under the formula. However, the conferees state their firm intent that this "60% trigger" be used only as a last resort by the Corporation because of the substantial burden it would impose on the stations. There is nothing in this provision which would bar any other voluntary arrangement undertaken by the Corporation and public television and radio licensees to share any or all of these fixed costs on any other basis—and the conferees hope such arrangements will in fact be undertaken. Should CPB use the trigger when its costs for the three items mentioned above reach the critical level, the conferees ask the Corporation to carefully consider using its non-federal income—interest income by virtue of the annual disbursement of funds by the Treasury, revenues from leasing the interconnection, and such other funds as may be available—to defray such costs before passing the balance on to the stations. The Corporation should consider, for example, using its revenues from leasing interconnection facilities to defray its share of operating the interconnection. Further, the Corporation is to avoid any "loading" of these three fixed costs in a way that will make use of the trigger inevitable. In sum, the conferees ask the Corporation, in consultation with the stations, to resolve this matter of CPB's fixed costs for the satellite, copyright, and interconnection in a way that will avoid a chronic and imminent danger that the 60% trigger will be breached in the budgets established pursuant to this legislation.

The conference agreement also maintains the current commitment to independent producers.

CPB annual appropriations, fiscal year 1984-86

CPB—10 percent.....

[In millions of dollars]

.. 130.00

Administrative expenses and contingency—no more than 5 percent (maximum).....	6.50
Interest, satellite, copyright, interconnection, research, training, education, engineering—no less than 5 percent (minimum).....	6.50
Total CPB.....	13.00
Television and radio—90 percent.....	117.00
Television—75 percent.....	87.75
¹ Community service grants—75 percent.....	65.81
² National program fund—25 percent.....	21.94
Radio—25 percent.....	29.25
¹ Community service grants—no less than 50 percent (minimum).....	14.62
² National programming—no more than 50 percent (maximum).....	14.62
¹ Total station support—62 percent: 80.43 million.	
² Total programming support—28 percent: 35.36 million.	

With respect to interconnection, the House conferees accepted the Senate amendment that the Corporation assume 50 percent of the costs of interconnection, but added an amendment to provide that CPB share with the stations 50 percent of the revenues yielded from leasing the interconnection for commercial purposes. This section is not intended to apply to stations that own their own ground terminals. In such cases, stations should retain their right to revenues derived from facilities they own, subject only to their prior contractual obligations to CPB.

The House accepted the Senate amendments deleting the so-called "50 percent rule" (Section 396(k)(7) of current law) and requiring csg's to be used "primarily" for programming.

The House accepted the Senate amendment regarding the relationship of community service grants and taxable unrelated business income. The conferees intend that this "recapture provision" apply only to funds distributed to public telecommunications entities.

Community Advisory Boards

S 720 deleted the requirement that public television and radio stations establish community advisory boards. HR 3238 retained this requirement, and clarified their structure.

The conference agreement accepts the House provision, but limits the requirement only for so-called "community" licensees—those not owned or operated by a State, its subdivisions, or a public agency. Indeed, it is hoped that all stations recognize the value of having strong and effective boards, and will continue their existence and participation in station activities.

Section 396(1), Records and Audit

The House accepts the Senate amendments to Section 396(1), regarding shared institutional advertising and biannual audits.

Section 397, Definitions

S 720 made several minor, technical, and conforming changes to this section. HR 3238 retained current law, with the exception of a technical amendment to Section 397(15). The Senate accepted the House provisions

Section 398, Equal Employment Opportunity

The conferees agreed to retain current law, as provided in House bill.

Section 399, Editorials; Recordings of Certain Broadcasts

S 720 and HR 3238 were substantially similar in their amendments to Section 399. The Senate accepted the House amendments.

Section 399A, Logograms

HR 3238 authorized public television and radio stations to broadcast the logos of corporate underwriters. The Senate had no comparable provision.

The Senate accepted the House proposal with an amendment that the FCC is explicitly authorized to consider further rulemakings, consistent with the purposes of this provision, in this area.

Section 399B, Commercial Activities.

HR 3238 authorized public broadcast stations to offer certain facilities, services, and products for remuneration, but barred the broadcast of advertisements. S 720 continued no comparable provision.

The Senate accepted the House amendment.

Studies/Advertising Experiment

S. 720 contained a study by the FCC of its rule regarding on-air sponsorship identification by the stations, and related issues. HR 3238 established a Temporary Study Commission to explore and report to Congress its review of all financing alternatives, and related issues, available to public broadcasting, and provided for an 18-month experiment whereby selected stations could broadcast advertisements.

The conference agreement accepts the House amendment, with an amendment that renders optional the advertising experiment. However, if the Study Commission does decide to conduct the experiment, it shall proceed as outlined in HR 3238.

CHAPTER II—RADIO AND TELEVISION BROADCASTING

RADIO AND TELEVISION LICENSE TERMS

The Senate bill amended Section 307(d) of the Communications Act of 1934 to extend license terms for radio indefinitely from the present three year period, and to extend television license terms and from three to five years. The conference agreement accepts the Senate proposal to extend television license terms to five years. The conferees, however, decided to extend radio licenses from 3 years to 7 years. Broadcast licenses presently in effect could not be extended until the time of renewal. The conferees note that the evidence demonstrates that the marketplace is more competitive in the radio industry than in the television industry—enough so to justify a longer term.

The conferees note that the extension of terms for broadcast licenses would help to reduce costs to broadcasting and the Commission costs, while at the same time allowing the Commission to do a better job of monitoring performance. Periodic license

review occasionally brings to light certain matters with respect to a broadcaster's performance that may otherwise have gone undetected. However, the most serious station deficiencies are generally brought to the Commission's attention through complaints filed during the license term. Since this complaint process will continue, the public will have ample opportunity to bring such matters promptly to the Commission's attention. Thus, an extension of the license term will not lessen the Commission's oversight and enforcement powers necessary to protect the public.

OTHER RADIO AND TELEVISION PROVISIONS

The Senate reconciliation bill contained numerous provisions with respect to the deregulation of radio and television. The Senate bill: 1) Section 444-2(a) extending radio license terms indefinitely; 2) Section 444-2(b) creating new procedures with respect to license revocation; 3) Section 444-4 prohibiting the FCC from requiring radio licensees to:

- a) provide news, public affairs, or locally produced programs;
 - b) adhere to a particular programming format;
 - c) maintain program logs;
 - d) ascertain needs and interests, of the area served;
 - e) restrict the length or frequency of commercials;
- 4) Section 444-4 requiring the Commission to report annually to Congress on the elimination of regulation relating to radio broadcasting; 5) Section 445-3 prohibiting the Commission from considering a competing television broadcast applicant while it is considering whether to renew the existing license; 6) Section 445-3 creating a new standard for television license renewal; 7) Section 445-4 providing that a station be reassigned to states presently without any existing commercial VHF station when a channel assignment becomes available in a neighboring state;

RANDOM SELECTION OF INITIAL LICENSES

The Senate bill included amendments to Section 309 of the Communications Act which permitted the Federal Communications Commission, in its discretion, where there is more than one applicant for a radio or television broadcast frequency that becomes available, to grant the application based on a system of random selection (i.e., lottery) to be developed by the Commission. The conference agreement adds a new subsection to Section 309 directing the FCC to establish rules within 180 days of enactment of this legislation, setting forth the procedures to be followed in any Commission proceeding in which the FCC, in its discretion, decides to grant any initial license or construction permit on the basis of random selection. The conferees intend that this provision may be applied by the Commission to the grant of any license for use of the electromagnetic spectrum in which there are mutually exclusive applicants for the same license.

The legislation provides that the Commission is to determine, prior to conducting any random selection procedure, that each applicant who is to be included in the random selection meets the minimum or basic qualifications set forth in Section 308(b) of the

Act. It is the firm intention of the conferees that Section 309(j) requires the Commission to conduct at most a "paper" hearing in making a determination of minimum qualifications rather than a trial-type hearing. See *U.S. v. Florida East Coast Railway Co.*, 410 U.S. 224, 238-246 (1973). The conferees direct that the Commission expedite its determination of minimum qualifications in order that the random selection proceeding itself not be delayed. The Commission could, for instance, delegate authority to determine such qualifications to the appropriate Bureau Chief. The provisions of Section 409(c)(2) of the Act shall not apply to the Commission's determination of minimum qualifications.

Section 309(j)(3) is added directing the Commission to establish rules and procedures to ensure that significant preferences are given to any groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties. It is the firm intention of the conferees that ownership by minorities, such as blacks and hispanics, as well as by women, and ownership by other underrepresented groups, such as labor unions and community organizations, is to be encouraged through the award of significant preferences in any such random selection proceeding. These are groups which are inadequately represented in terms of nationwide telecommunications ownership, and it is the intention of the conferees in establishing a random selection process that the objective of increasing the number of media outlets owned by such persons or groups be met.

The conferees note that the current system (based on comparative proceedings) of awarding licenses where mutually exclusive applicants exist often produces substantial delays and burdensome costs on both the applicant and the Commission. It is the intention of the conferees by authorizing the Commission to conduct random selection of licenses that these costs and burdens be alleviated. By making a determination that all applicants participating in the random selection process meet the Section 308(b) basic qualifications, however, the public continues to be protected from unqualified licensees.

By the establishment of basic qualifications and the elimination of initial comparative hearings, the conferees intend that much of the present delay and expense can be eliminated with no adverse effect on the provision of services to the public.

The conferees wish to emphasize that a random selection proceeding is to be used by the Commission in its discretion, and that the conferees do not intend to discourage the use of the comparative hearing process by the Commission where, due to a sufficiently small number of applicants or for other reasons, a comparative proceeding would better serve the public interest, convenience and necessity.

The conferees note that delays and expense which are often incurred with respect to certain comparative proceedings can, in and of themselves, present a substantial barrier to entry into telecommunications markets by those who are presently unable to incur such costs. Thus, a random selection proceeding will encourage those presently discouraged by these barriers to seek a license award.

The conferees are particularly concerned with the delay that will result if comparative proceedings are used to award licenses for low-power television service. The Commission has already received over 5,000 applications, most of which are, or will be, mutually exclusive with other applications. Unless alternate procedures are devised, the Commission will have geometric increase in comparative hearings and many years of delay in action on these applications. The conferees note that a matter such as this is ideally suited for the application of random selection procedures. By authorizing the Commission to apply random selection to any license application already submitted, but not yet designated for hearing, it will be possible to process low-power television applications rapidly on a random selection basis.

Section 309(j)(4) directs the Commission, after notice and opportunity for hearing, to prescribe rules establishing a system of random selection. The conferees intend that the Commission will implement this section in accordance with 5 U.S.C. 553.

FRIVOLOUS LICENSE APPLICATIONS

Section 1243 adds a new subsection 311(d) to the Communications Act of 1934. This subsection makes it unlawful, without approval of the FCC, for the applicants for a broadcasting station license to effectuate an agreement whereby one or more of the applicants withdraws their application or applications in exchange for the payment of money, or the transfer of assets or any other item of value from the remaining applicant or applicants.

Subsection 311(d) is intended to prevent a situation in which a person files a frivolous application for a station license in order to harass an incumbent which is applying for renewal of its license (or any other legitimate applicants for the same license), and offers to withdraw the frivolous applications upon payment of money or a transfer of assets by the legitimate applicant. Payment or transfer could be either to the frivolous applicant or to third parties.

Under paragraph (d)(3), the FCC may approve an agreement between or among applicants, as described in paragraph (d)(1), only if the Commission finds that the agreement is consistent with the public interest, convenience and necessity, and also that no party to the agreement filed its license application for the purpose of reaching or carrying out such an agreement.

ALLOCATION OF VHF TELEVISION STATION TO NEW JERSEY AND DELAWARE

The House conferees wish to note that they argued strongly for an amended version of a provision in the Senate bill which would have provided that a VHF television license be reassigned, if technically feasible, from a neighboring state to New Jersey or Delaware if such license was revoked or denied by the Commission. The Senate would not accept any provision dealing with this issue in the context of the legislation agreed to in this conference. However, the Senate conferees were sympathetic to the situation in New Jersey and Delaware.

CHAPTER III—REGULATORY AGENCIES

SUBCHAPTER A—FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION OF APPROPRIATIONS

The Senate bill included section 441-1(a) authorizing expenditures for the Federal Communications Commission (FCC). The House bill had no such provision, but had passed similar legislation, H.R. 3239, on June 9, 1981. The conferees agreed to the Senate's provision authorizing the FCC at a level of \$76,900,000 with the following changes: the term of the authorization was changed from three to two years; sec. 441-1(b) establishing charges for services performed by the FCC was deleted.

In adopting this provision the conferees believe that Congress is exercising its appropriate role to ensure that the American people benefit from competition and deregulation. It is appropriate, therefore, that Congress be given the opportunity for regular and systematic oversight of the FCC's implementation of Congressional policy. A two-year authorization instead of the prior permanent authorization for the FCC will provide that opportunity.

Regular and systematic oversight will increase Commission accountability for the implementation of Congressional policy. Congress will benefit from greater exposure to the Commission's expertise on the policy implications presented by the new telecommunications services made possible by rapidly changing technologies. The Commission, in turn, will have a better appreciation of Congressional intent.

Section 1252 requires the FCC to appoint a Managing Director and to report its goals and priorities to Congress annually. The Commission now has an Executive Director who has responsibility for various administrative functions such as procurement, personnel management, and budget preparation, but who has no authority to direct the activities of the bureaus and offices. Consequently, no one individual functions as the chief operating officer at the Commission, and the Commission's bureaus and offices have operated independently of one another with resultant problems in coordination, communications, and direction. The conferees believe that a central locus of management authority—a Managing Director—is needed. We emphasize the importance of a strong Managing Director in improving overall Commission management. This position is now required.

Section 1253 requires that the FCC complete its rulemaking on a new Uniform System of Accounts as soon as practicable. The conferees concur with the General Accounting Office's criticism of the resources and staff to revise the USOA (Docket 78-196). The conferees expect the Commission to respond to the clearly demonstrated need for a revised USOA by establishing a schedule, together with the necessary staff and resources, that will ensure completion of this proceeding within two years.

SUBCHAPTER B—NATIONAL TELECOMMUNICATIONS AND INFORMATION AGENCY AUTHORIZATION OF APPROPRIATIONS

The Senate bill included section 442-1 authorizing expenditures of \$16,500,000 in Fiscal Year 1981 for the National Telecommunica-